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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

National institutions for the promotion and protection of human rights

Report of the Secretary-General submitted in accordance with Commission on Human Rights resolution 1997/40

Introduction

1. At its fifty-third session Commission on Human Rights adopted resolution 1997/40, entitled "National institutions for the promotion and protection of human rights", in which it reaffirmed the importance of developing effective, independent and pluralistic national institutions for the promotion and protection of human rights, consistent with the Principles relating to the status of national institutions annexed to General Assembly resolution 48/134.

2. In paragraph 9 of the resolution, the Commission requested the Office of the High Commissioner for Human Rights, with the assistance of national institutions and their Coordinating Committee, to continue to provide technical assistance to States wishing to establish or strengthen national institutions and to organize training programmes for national institutions which request them. In paragraph 16, the Commission requested the Secretary-General to submit to the Commission a report containing options for arrangements for national institutions which conform with the Principles on the status of national institutions to participate in an appropriate manner in their own right in meetings of the Commission on Human Rights and its subsidiary bodies, so that the Commission could resolve the question at its

fifty-fourth session. In paragraphs 17 and 18, the Commission reiterated its request to the Secretary-General to convene a fourth international workshop on national institutions, to be held in Mexico in 1997, and welcomed the decision to hold the second Asia-Pacific regional workshop of national institutions within the next year.

3. The present report is submitted pursuant to resolution 1997/40 and supplements the report of the Secretary-General submitted to the General Assembly at its fifty second session (A/52/468).

I. PARTICIPATION BY NATIONAL INSTITUTIONS IN MEETINGS OF THE COMMISSION ON HUMAN RIGHTS AND ITS SUBSIDIARY BODIES

4. The issue of the participation by national institutions in meetings of the Commission on Human Rights and its subsidiary bodies has been the subject of several resolutions of the Commission on Human Rights and the General Assembly.

5. In the last few years, the number of national institutions has increased significantly and in a number of cases their functions in promoting and protecting human rights at the national level have evolved. While national institutions are usually either constitutionally entrenched or established by national legislation and depend upon financial resources provided by Government, an effective national institution will be one which is capable of acting independently of Government, party politics and other external influences. National institutions are playing an increasing role in the work of the United Nations and are in a position to implement, at the national level, action to ensure the promotion and protection of internationally recognized human rights.

6. The participation of national institutions in human rights forums is not a new idea. They have, in the past, been granted status in several international meetings. At the World Conference on Human Rights in Vienna in 1993, national institutions were granted the right to participate de jure in the debates. Since the World Conference, national institutions have participated as independent entities in a number of international and regional seminars and workshops organized in conjunction with the United Nations and some have addressed the Commission on Human Rights (as separate entities, but generally speaking from the seats of their official government delegations). At the fifty-second session of the Commission, the Chairman of the Commission decided to allocate separate speaking time for national institutions during consideration of the sub-item of the agenda on national institutions. A similar arrangement was adopted at subsequent meetings.

7. In order to obtain the views of Governments in regard to this matter, the Secretary-General has sent notes verbales on several occasions. The majority of Governments that responded were generally in favour of enabling national institutions to participate in such meetings in their own right and considered that they should be granted a distinct status, independent from the government delegations. The following advantages were mentioned: informing human rights forums of their activities and publicly sharing information with Governments, other national institutions and non-governmental organizations; reinforcing their independence from Government; enhancing their cooperative

links with other national institutions; and facilitating their work at the United Nations, including their access to documents and their knowledge of United Nations activities in the field of human rights. Their participation in human rights forums would also enable national institutions to ensure better follow-up to the recommendations of relevant United Nations organs.

8. At the Fourth International Workshop of National Institutions for the Promotion and Protection of Human Rights, held in Mexico in November 1997, national institutions reaffirmed their wish to participate in United Nations meetings in their own right, to enhance the sharing of information and experiences with other members of the international community and to further strengthen their activities for the promotion and protection of human rights.

9. According to the option chosen for the participation of national institutions in United Nations human rights forums, national institutions may: (a) be part of the delegation of their Government and be granted part of the delegation's speaking time; (b) be part of the delegation of their Government and be granted separate speaking time, in addition to that of the delegation; (c) participate in meetings in their own right with separate speaking time (as is the case with observers for non-governmental organizations).

II. FOURTH INTERNATIONAL WORKSHOP OF NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

10. The Fourth International Workshop of National Institutions was held in Mérida, Mexico, from 17 to 29 November 1997. It was organized by the National Commission on Human Rights of Mexico and attended by a wide range of national institutions from all regions. Opening addresses were delivered by the President of Mexico and the Special Adviser to the High Commissioner for Human Rights, on national institutions. In his address, the Special Adviser reaffirmed the universality and indivisibility of human rights and stressed the need to focus on preventive strategies and the importance of creating strong, independent national institutions to provide accessible remedies. It was the independence of national institutions, the integrity of their mandates, the commitment of their members and the effectiveness of their programmes which would ultimately determine their contribution to the promotion and protection of human rights.

11. The Workshop focused on four major themes: cooperation between national institutions; particularly vulnerable groups; migration movements and the fight against racism and xenophobia; and economic, social and cultural rights and the right to development.

12. The Conference adopted the "Mérida Declaration" at its closing session in which national institutions recognized that underdevelopment constitutes a barrier to the full and effective enjoyment of human rights. They also called attention to the situation of indigenous people; urged States to recognize the origin, extent and importance of migratory flows; expressed their resolve to coordinate activities relating to the promotion and protection of all human rights with non-governmental organizations; stressed the urgency of the adoption of a United Nations declaration for the protection of human rights defenders; recommended that all Governments ratify and implement international human rights instruments; commended the High Commissioner for Human Rights for

her support for national institutions; and reaffirmed their expectation that the Office of the High Commissioner for Human Rights would continue to give priority to the creation and strengthening of national institutions in accordance with the Principles relating to the status of national institutions.

III. SECOND ASIA-PACIFIC REGIONAL WORKSHOP OF NATIONAL INSTITUTIONS

13. The second Asia-Pacific regional workshop of national institutions, held in New Delhi from 10 to 12 September 1997, was hosted and organized by the National Human Rights Commission of India in cooperation with the Asia-Pacific Forum of National Institutions and the Office of the High Commissioner for Human Rights. The workshop brought together representatives from six national human rights commissions belonging to the Asia-Pacific Forum: those of Australia, India, Indonesia, New Zealand, the Philippines and Sri Lanka. Representatives of 14 Governments of the region were also present, in addition to United Nations bodies, key non-governmental organizations and the chairpersons of five Indian state Human Rights Commissions. Participating countries included a number which are in the process of establishing national institutions (including Bangladesh, Nepal, Mongolia and Thailand) and several contemplating the establishment of such institutions.

14. The three-day workshop was inaugurated by the Prime Minister of India. Working sessions focused on a review of developments in the region relating to the establishment of national institutions and ways in which to strengthen their operation, including, in particular, complaint-handling mechanisms and procedures, staff training, staff exchange and the sharing of experiences. This was followed by discussion of plans for cooperative action in developing human rights jurisprudence, combating sexual exploitation of children and observing the fiftieth anniversary of the Universal Declaration of Human Rights.

15. The decisions and recommendations of the workshop included: reaffirming the universal, indivisible, interdependent and interrelated nature of human rights; emphasizing that to ensure their effectiveness and credibility, the status and responsibilities of national institutions should be consistent with the Principles relating to the status of national institutions; stressing the importance of collating, disseminating and developing human rights jurisprudence; condemning the practice of child sexual exploitation as a gross abuse of human rights and calling upon all Governments in the region to take measures to combat child sexual exploitation; and requesting that the secretariat of the Asia-Pacific Forum give prominence to the Universal Declaration of Human Rights in its technical cooperation and information activities.

16. In addition, the workshop noted the proposal submitted by the Human Rights and Equal Opportunity Commission of Australia for an advisory panel to the Forum on international human rights law and agreed in principle to set up such a panel. In order to address the various considerations relevant to the operations of such a panel, the workshop decided to establish a subcommittee comprising representatives of the national institutions of Australia and India to consider all relevant issues.